

Representative Eric K. Hutchings proposes the following substitute bill:

SOCIAL HOST LIABILITY ACT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill enacts the Social Host Liability Act.

Highlighted Provisions:

This bill:

- defines terms;
- establishes responsibility related to an underage drinking gathering;
- makes certain conduct subject to a citation and civil penalties, including recovery of response costs;
- allows for the reservation of legal options; and
- provides for appeals.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-6-1601, Utah Code Annotated 1953

78B-6-1602, Utah Code Annotated 1953



26 **78B-6-1603**, Utah Code Annotated 1953
27 **78B-6-1604**, Utah Code Annotated 1953
28 **78B-6-1605**, Utah Code Annotated 1953
29 **78B-6-1606**, Utah Code Annotated 1953

31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **78B-6-1601** is enacted to read:

33 **Part 16. Social Host Liability Act**

34 **78B-6-1601. Title.**

35 This part is known as the "Social Host Liability Act."

36 Section 2. Section **78B-6-1602** is enacted to read:

37 **78B-6-1602. Definitions.**

38 As used in this part:

39 (1) "Alcoholic beverage" is as defined in Section 32A-1-105.

40 (2) "Emergency response provider" means an individual providing services on behalf
41 of:

42 (a) a law enforcement agency;

43 (b) a fire suppression agency; or

44 (c) another agency or a political subdivision of the state.

45 (3) "Law enforcement officer" is as defined in Section 53-13-103.

46 (4) "Local entity" means the political subdivision for which an emergency response
47 provider provides emergency services.

48 (5) "Minor" means an individual under the age of 18 years old.

49 (6) (a) Subject to Subsection (6)(b), "response costs" means the actual costs directly
50 associated with an emergency response provider responding to, remaining at, or otherwise
51 dealing with an underage drinking gathering, including:

52 (i) the costs of medical treatment to or for an emergency response provider injured
53 because of an activity described in this Subsection (6)(a); and

54 (ii) the cost of repairing damage to equipment or property of a local entity that is
55 attributable to an activity described in this Subsection (6)(a).

56 (b) "Response costs" does not include:

(i) the salary and benefits of an emergency response provider for the amount of time spent responding to, remaining at, or otherwise dealing with an underage drinking gathering; or

(ii) the administrative costs attributable to an activity described in Subsection (6)(b)(i).

(7) "Underage drinking gathering" means a gathering of two or more individuals:

(a) at which service to or consumption of an alcoholic beverage by an underage person occurs; and

(b) to which an emergency response provider is required to respond, except for a response related solely to providing medical care at the location of the gathering.

(8) "Underage person" means an individual under the age of 21 years old.

Section 3. Section **78B-6-1603** is enacted to read:

78B-6-1603. Citation -- Civil penalty.

(1) An individual may not knowingly conduct, aid, or allow an underage drinking gathering.

(2) A law enforcement officer may issue a written citation to an individual who violates Subsection (1).

(3) An individual issued a citation under this section is subject to a civil penalty equal to the sum of:

(a) (i) a fine of \$250 for a first citation; or

(ii) double the fine imposed for an immediately preceding citation for each subsequent citation; and

(b) the response costs of the underage drinking gathering, not to exceed \$1,000.

(4) Two or more individuals who violate Subsection (1) for the same underage drinking gathering are jointly and severally liable under this section for response costs attributable to the underage drinking gathering.

(5) An individual who violates Subsection (1) is liable under this part regardless of whether the individual is present at an underage drinking gathering.

Section 4. Section **78B-6-1604** is enacted to read:

78B-6-1604. Collection of civil penalty.

(1) A local entity shall mail a notice of the civil penalty amount for which an individual is liable by first-class or certified mail within 14 days of the day after which a citation is issued under Section 78B-6-1603. The notice shall contain the following information:

88 (a) the name of the one or more individuals being held liable for the payment of the
89 civil penalty;

90 (b) the address of the location where the underage drinking gathering occurs;

91 (c) the date and time of the response;

92 (d) the name of an emergency service provider who responds to the underage drinking
93 gathering; and

94 (e) an itemized list of the response costs for which the one or more individuals are
95 liable.

96 (2) (a) An individual liable under Section 78B-6-1603 shall remit payment of a civil
97 penalty to the local entity that provides the notice required by Subsection (1) within 90 days of
98 the date on which the notice is sent.

99 (b) Notwithstanding Subsection (2)(a), a local entity may:

100 (i) reduce the amount of a civil penalty; or

101 (ii) negotiate a payment schedule for a civil penalty.

102 (3) (a) A civil penalty imposed under this section may be appealed as provided in
103 Section 78B-6-1606.

104 (b) Notwithstanding Subsection (4), the payment of a civil payment is stayed upon an
105 appeal made pursuant to Section 78B-6-1606.

106 (4) (a) The amount of a civil penalty owed under this part is considered a debt owed to
107 the local entity by the individual held liable under this part for an underage drinking gathering.

108 (b) After the notice required by Subsection (1), an individual owing a civil penalty is
109 liable in a civil action brought in the name of the local entity for recovery of:

110 (i) the civil penalty; and

111 (ii) reasonable attorney fees.

112 Section 5. Section **78B-6-1605** is enacted to read:

113 **78B-6-1605. Reservation of legal options.**

114 (1) (a) This part may not be construed as a waiver by a local entity of a right to seek
115 reimbursement for actual costs of response services through another legal remedy or procedure.

116 (b) The procedure provided for in this part is in addition to any other civil or criminal
117 statute.

118 (c) This part does not limit the authority of a law enforcement officer or private citizen

119 to make an arrest for a criminal offense arising out of conduct regulated by this part.

120 (2) A local entity may impose by ordinance a stricter provision related to the conduct
121 of an underage drinking gathering, including the imposition of a different civil penalty amount,
122 except that the ordinance shall provide that a civil penalty for an underage drinking gathering
123 may only be imposed by a local entity for which an emergency response provider provides
124 services at the underage drinking gathering.

125 Section 6. Section **78B-6-1606** is enacted to read:

126 **78B-6-1606. Appeals.**

127 An individual upon whom is imposed a civil penalty under this part may appeal the
128 imposition of the civil penalty pursuant to the procedures used by the local entity for appealing
129 a traffic citation or a violation of an ordinance.

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Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill will impact local justice courts, however the amount is unquantifiable at this time.
